

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



January 8, 2002

Regulation Package 0600-14

CDSS MANUAL LETTER NO. CCL-01-09

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,
CHAPTER 7.5, FOSTER FAMILY HOMES

Regulation Package #0600-14**Effective 6/29/01****Sections 87001, 87017, 87027, 87029, 87032, 87033, 87034, 87036, 87041, 87044, and 87045**

Assembly Bill (AB) 396, Chapter 709, Statutes of 1992 enacted a new fee structure for community care facilities. It replaced renewal fees with annual fees. As a result, licenses issued by the Department no longer have an expiration date, they are perpetual. Renewal licenses are no longer necessary and are not issued. These proposed amendments repeal distinctions made between "initial" and "renewal" licenses; references to terms of licensure, to renewal applications, renewal fees, and renewal licenses; and replace references to "renewal" with "annual" when appropriate. Specifically, the regulations make nonsubstantive revisions to current regulations by amendment, repeal, or by making other minor revisions relating to the renewal process, and by replacing the term "renewal" with "annual" as appropriate. Various sections have also been renumbered for consistency.

Since these regulations were nonsubstantive they did not require a public hearing.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-01-08. The latest prior manual letter containing Foster Family Homes changes was Manual Letter No. CCL-01-02.

<u>Page(s)</u>	<u>Replace(s)</u>
5 and 6	Pages 5 and 6
14 and 15	Pages 14 and 15
26 and 27	Pages 26 and 27
50	Page 50
52 and 53	Pages 52 and 53
55 and 56	Pages 55 and 56
59	Page 59
62 and 63	Pages 62 and 63
67 and 68	Pages 67 and 68
71 and 72	Pages 71 and 72

Attachment
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Article 1. GENERAL REQUIREMENTS AND DEFINITIONS**87000 GENERAL****87000**

- (a) The licensee shall ensure compliance with all applicable law and regulations.
- (b) The provisions of Chapter 1, General Licensing Requirements shall not apply to Chapter 7.5, Family Homes.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1502, 1530, 1530.5 and 1531, Health and Safety Code.

87001 DEFINITIONS**87001**

The following definitions shall apply whenever the terms are used throughout this chapter.

- a.
 - (1) "Adult" means a person who is 18 years of age or older.
 - (2) "Applicant" means any adult who has made application for foster family home license.
 - (3) "Authorized Representative" means any person or entity authorized by law to act on behalf of any child. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.
- b.
 - (1) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allotted for the recipient's personal and incidental needs.
 - (2) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.
- c.
 - (1) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.
 - (2) "Care and Supervision" means any one or more of the following activities provided by a licensee to meet the needs of the children:
 - (A) Assistance in dressing, grooming, bathing and other personal hygiene.

87001 DEFINITIONS (Continued)**87001**

- (B) A facility which is "providing care and supervision" as defined in Section 87001c.(2) includes, but is not limited to, one in which an unemancipated minor has been placed for temporary or permanent care.
- (C) A facility which is "held out as or represented as providing care and supervision" includes, but is not limited to:
 - (1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.
 - (2) A facility where change of ownership has occurred and the same clients are retained.
 - (3) A licensed facility that moves to a new location.
 - (4) A facility which advertises as providing care and supervision.
- (D) A facility which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limit to a facility which houses unemancipated minors, even though the facility is providing board and room only, or board only, or room only.
- v. (1) "Ventilator-Dependent Child" means a child who for part or all of each day cannot sustain ventilation spontaneously at a level sufficient to prevent death or the development of life-threatening complications.
- w. (1) "Waiver" means a nontransferable written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation which are based on a facility-wide need or circumstance.
- x. (Reserved)
- y. (Reserved)
- z. (Reserved)

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 319(d), 17710, 17710(a) and (g), 17731, 17731(c) and 17736(a), Welfare and Institutions Code and Sections 1337, 1501, 1502, 1503.5, 1505, 1507, 1507.5, 1520, 1522, 1524, 1524(e), 1526, 1526.5, 1527, 1530, 1530.5, 1530.6, 1531, 1531.5, 1533, 1534, 1536.1, 1537, 1550, 1551, 1727(c), and 11834.11, Health and Safety Code.

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(d) The following are examples of course, seminar, conference or training topics which will be accepted by the licensing agency to meet the requirements in (c) above. Programs which can be shown to be similar will also be accepted.

- (1) Child development
- (2) Recognizing and/or dealing with learning disabilities
- (3) Infant care and stimulation
- (4) Parenting skills
- (5) Complexities, demands and special needs of children in placement
- (6) Building self-esteem, for the licensee or the children
- (7) First aid and/or CPR
- (8) Recordkeeping
- (9) Bonding and/or safeguarding of children's property
- (10) Licensee rights and grievance process
- (11) Licensing and placement regulations
- (12) Rights and responsibilities of foster family home providers

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1520 and 1531, Health and Safety.

HANDBOOK CONTINUES

The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence. The cessation of review shall not constitute a denial of the application.

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- (2) The circumstances and conditions in which the licensing agency may continue to review a previously denied application shall include, but are not limited to, the following:
 - (A) A fire clearance previously denied, but now approved;
 - (B) A licensee who did not meet the minimum qualifications, but now fulfills the qualifications; or
 - (C) A person with a criminal record, which was the basis for license denial, is no longer associated with the facility.
- (3) This review shall not constitute approval of the application.
- (4) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code Section 1520.3.

NOTE: Authority cited: Sections 1524, 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520, 1520.3, 1523.1, and 1524, Health and Safety Code.

87029 WITHDRAWAL OF APPLICATION**87029**

- (a) An applicant shall have the right to withdraw an application.
- (1) Such withdrawal shall be in writing.

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- (b) Health and Safety Code Section 1553 provides that the licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law, or to enter an order denying the license upon any such ground, unless it has consented in writing to such withdrawal.

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NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520 and 1553, Health and Safety Code.

87030 PROVISIONAL LICENSE**87030**

- (a) The licensing agency shall have the authority to issue a provisional license to an applicant, pending action under Sections 87031 or 87040 on a completed application for an initial license, if it determines that all of the following circumstances exist:
- (1) The home has no serious deficiencies as defined in Section 87001s.(1).
- (2) There is a change in home location and children currently in care are in need of services from the same licensee at the new location.
- (b) The capacity of a provisional license shall be limited to the number of children currently in care or the capacity established for the specific home whichever is less.
- (c) The licensing agency shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.
- (d) The licensing agency shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.

87032	TERM OF AN INITIAL OR RENEWAL LICENSE	87032
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Repealed by Manual Letter No. CCL-01-09, effective 6/29/01.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1524 and 1525, Health and Safety Code.

87033	APPLICATION FOR RENEWAL OF LICENSE	87033
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Repealed by Manual Letter No. CCL-01-09, effective 6/29/01.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520, 1524 and 1525, Health and Safety Code.

87034 SUBMISSION OF NEW APPLICATION**87034**

- (a) A licensee shall file a new application as required by Section 87018 whenever there is a change in conditions or limitations described on the current license.
- (1) The licensing agency shall have the authority to grant capacity increases without resubmission of an application following a licensing agency review and the securing of a fire clearance, if needed.

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- (2) Changes commonly overlooked but which require that a new application be filed include:
- (A) Any change in the location of the home.
- (B) Any change in facility category.
- (C) A permanent change in any child from ambulatory to nonambulatory status.

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- (b) An applicant shall file a new application whenever an applicant fails to complete an application within the time required by Section 87027(b) if the applicant chooses to continue the application process.
- (c) Repealed by Manual Letter No. CCL-01-09, effective 6/29/01.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1520 and 1531, Health and Safety Code.

87035	CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME LICENSE (Continued)	87035
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- (c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.
- (d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 87030.
 - (1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 87030 have been met and that the health and safety of the residents of the facility will not be jeopardized.

NOTE: Authority cited: Sections 1523, 1524(e), 1530, and 1530.5, Health and Safety Code. Reference: Sections 1523, 1524, and 1524(e), Health and Safety Code.

87036	APPLICATION/ANNUAL PROCESSING FEE	87036
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- (a) No application/annual processing fee shall be charged to foster family homes.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1524, Health and Safety Code.

87041 DENIAL OF A RENEWAL LICENSE**87041**

Repealed by Manual Letter No. CCL-01-09, effective 6/29/01.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520, 1524, 1525, 1526 and 1531.5, Health and Safety Code.

87043 LICENSEE/APPLICANT COMPLAINTS**87043**

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- (a) Each licensee/applicant shall have the right, without prejudice, to bring to the attention of the department or the licensing agency, or both, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any differences in opinion between the licensee and any licensing representative concerning the proper application of the regulations in this chapter.

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NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

87044 INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING AGENCY**87044**

- (a) The department or licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1533, 1534, and 1538.

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- (1) Health and Safety Code Section 1533 provides in part:

Any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, to secure compliance with, or to prevent a violation of any provision of this chapter.

Foster family homes which are considered private residences for the purpose of Section 1530.5 shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint. The unannounced visits shall not constitute the annual evaluation visit required by Section 1534.

HANDBOOK CONTINUES

87044 INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING AGENCY (Continued) 87044

- (c) The licensing agency shall have the authority to observe the physical condition of the child, including conditions which could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the child.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1531, 1533, 1534 and 1538, Health and Safety Code.

87045 EVALUATION VISITS 87045

- (a) Every home shall be evaluated as specified in Health and Safety Code Sections 1533 and 1534.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1533 provides in part:

Any duly authorized officer, employee or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision and services at any time, to secure compliance with, or to prevent a violation of any provision of this chapter.

Foster family homes which are considered private residences for the purpose of Section 1530.5 shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint. The unannounced visit shall not constitute the annual evaluation visit required by Section 1534.

Inspection visits to foster family homes shall be made during normal business hours, unless the serious nature of a complaint requires otherwise.

"Normal business hours", as used in this section, means from 8 a.m. to 5 p.m., inclusive, of each day from Monday to Friday, inclusive, other than State holidays.

HANDBOOK CONTINUES

87045 EVALUATION VISITS (Continued)**87045**

HANDBOOK CONTINUES

- (2) Health and Safety Code Section 1534 provides:

Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided.

The state department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the state department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

HANDBOOK ENDS HERE

- (b) The licensing agency shall have the authority to make any number of additional visits to a facility in order to determine compliance with applicable law and regulation.
- (c) Repealed by Manual Letter No. CCL-97-09, effective 6/13/97.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1507.5, 1530.5, 1531, 1533, 1534 and 1538, Health and Safety Code.

87046 EXCLUSIONS**87046**

- (a) An individual can be prohibited from being employed, allowed in, and to have contact with clients in a licensed facility as specified in Health and Safety Code Section 1558.

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- (1) Health and Safety Code Section 1558 states:

“(a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

HANDBOOK CONTINUES
